

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 3

DOCKET NO.: 2007-1761-PST-E TCEQ ID: RN101536084 CASE NO.: 34910
 RESPONDENT NAME: NTA ENTERPRISES, INC. DBA LUCKY 7 QUICK STOP

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input checked="" type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 6011 South I-45 West, Corsicana, Navarro County

TYPE OF OPERATION: convenience store with retail sales of gasoline

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: One complaint was received on August 28, 2007. The complaint alleged a strong gasoline odor during excavation of a pit at a nearby property.

INTERESTED PARTIES: The complainant has not indicated a desire to protest this action or speak at Agenda. No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on November 10, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Barham A. Richard, Litigation Division, MC 175, (512) 239-0107
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Bryan Elliott, Waste Enforcement Section, MC 149, (512) 239- 6162

TCEQ Regional Contact: Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903

Respondent: Mr. Mansoorali Chunara, President, NTA Enterprises, Inc., 1020 S. Paris Street #1034, Ennis, Texas 75110

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: August 28, 2007</p> <p>Date of Investigation Relating to this Case: September 7, 2007</p> <p>Date of NOE Relating to this Case: October 3, 2007</p> <p>Background Facts: The EDPRP was filed April 23, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned. A Notice of Intent ("NOI") to shutdown USTs was mailed to the Respondent June 10, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to provide spill containment equipment for the UST system [30 TEX. ADMIN. CODE § 334.51(b)(2)(B) and TEX. WATER CODE § 26.3475(c)(2)]. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly [30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and (c)(4) and TEX. WATER CODE § 26.3475(d)]. Failed provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances, failed to provide release detection for the piping associated with the USTs, and failed to 	<p>Total Assessed: \$13,900</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$13,900</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent's UST delivery certificate is revoked immediately. The Respondent may submit an application for a new delivery certificate only after the Respondent complies with the terms of this Order.</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately, take the following steps to shut down operations of all USTs at the Facility: <ol style="list-style-type: none"> Cease dispensing fuel from the USTs; Cease receiving deliveries of regulated substances into the USTs; Padlock the dispensers; Empty the USTs of all regulated substances; and Temporarily remove the USTs from service. Within 10 days, send its UST delivery certificate to TCEQ. Within 15 days, submit a detailed written report documenting compliance with Ordering Provisions 1.a. through 2. If the Respondent elects to permanently remove from service any UST systems at the Facility: <ol style="list-style-type: none"> Immediately, permanently remove those UST systems from service; and Within 15 days, submit to TCEQ a written report documenting compliance. The Respondent's USTs shall remain out of service until such time as the Respondent demonstrates that the violations have been corrected. Prior to resuming service of the USTs: <ol style="list-style-type: none"> Begin conducting effective manual or automated inventory control procedures for all USTs; Equip all USTs at the Facility with spill and overfill prevention equipment; Begin conducting bimonthly inspections of the impressed current cathodic protection system; Implement a release detection method for all USTs at the Facility;

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>test the line leak detectors at least once per year for performance and operational reliability [30 TEX. ADMIN. CODE § 334.50(a)(1)(A), (b)(2), and (b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475 (a) and (c)(1)].</p> <p>4. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>5. Failed to ensure that all USTs are properly identified as listed on the Facility's UST Registration and Self-Certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p>		<p>e. Mark the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each UST; and</p> <p>f. Submit an application for a new delivery certificate.</p> <p>7. Within 10 days of resuming service, submit written certification to demonstrate compliance with Ordering Provisions 5 and 6.</p> <p>8. Upon obtaining a new delivery certificate, post the delivery certificate in a location where the document is clearly visible at all times.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision September 19, 2007

TCEQ

DATES

Assigned

15-Oct-2007

PCW

10-Mar-2008

Screening

22-Oct-2007

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent NTA Enterprises, Inc. dba Lucky 7 Quick Stop

Reg. Ent. Ref. No. RN101536084

Facility/Site Region 4-Dallas/Fort Worth

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 34910

Docket No. 2007-1761-PST-E

Media Program(s) Petroleum Storage Tank

Multi-Media

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

No. of Violations 5

Order Type 1660

Enf. Coordinator Philip DeFrancesco

EC's Team Enforcement Team 6

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$9,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

20% Enhancement

Subtotals 2, 3, & 7 \$1,900

Notes

Enhancement for one prior 1660 order.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5 \$0

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

0% Enhancement*

Subtotal 6 \$0

Total EB Amounts \$1,203

Approx. Cost of Compliance \$3,600

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal \$11,400

OTHER FACTORS AS JUSTICE MAY REQUIRE

22%

Adjustment \$2,500

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Recommended enhancement to capture the avoided cost associated with the violations.

Final Penalty Amount \$13,900

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$13,900

DEFERRAL

0%

Reduction

Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY

\$13,900

Screening Date 22-Oct-2007

Docket No. 2007-1761-PST-E

PCW

Respondent NTA Enterprises, Inc. dba Lucky 7 Quick Stop

Policy Revision 2 (September 2002)

Case ID No. 34910

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN101536084

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Philip DeFrancesco

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one prior 1660 order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date 22-Oct-2007		Docket No. 2007-1761-PST-E		PCW		
Respondent NTA Enterprises, Inc. dba Lucky 7 Quick Stop						
Case ID No. 34910						
Reg. Ent. Reference No. RN101536084						
Media [Statute] Petroleum Storage Tank						
Enf. Coordinator Philip DeFrancesco						
Violation Number		<div style="border: 1px solid black; width: 100px; text-align: center;">1</div>				
Rule Cite(s)		Tex. Admin. Code § 334.51(b)(2)(B) and Tex. Water Code § 26.3475(c)(2)				
Violation Description		<div style="border: 1px solid black; padding: 5px;"> <p>Failed to provide spill containment equipment for the UST system. Specifically, the spill bucket on tank number 3 was broken, the spill containment device on tank number 4 was not equipped with a liquid-tight lid, and three of the six fuel caps were excessively damaged.</p> </div>				
Base Penalty					<div style="border: 1px solid black; width: 100px; text-align: right;">\$10,000</div>	
>> Environmental, Property and Human Health Matrix						
OR	Harm					
	Release	Major	Moderate	Minor		
	Actual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	Potential	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	x	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	Percent	<div style="border: 1px solid black; width: 50px; text-align: right;">10%</div>
>> Programmatic Matrix						
	Falsification	Major	Moderate	Minor	Percent	<div style="border: 1px solid black; width: 50px; text-align: right;">0%</div>
	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
Matrix Notes	<div style="border: 1px solid black; padding: 5px;"> <p>Human health or the environment could be exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.</p> </div>					
Adjustment					<div style="border: 1px solid black; width: 100px; text-align: right;">\$9,000</div>	
					<div style="border: 1px solid black; width: 100px; text-align: right;">\$1,000</div>	
Violation Events						
Number of Violation Events		<div style="border: 1px solid black; width: 50px; text-align: center;">1</div>	Number of violation days		<div style="border: 1px solid black; width: 50px; text-align: center;">27</div>	
<i>mark only one with an x</i>	daily	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>				
	monthly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>				
	quarterly	x				
	semiannual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>				
	annual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>				
	single event	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>				
Violation Base Penalty					<div style="border: 1px solid black; width: 100px; text-align: right;">\$1,000</div>	
<div style="border: 1px solid black; padding: 5px;"> <p>One quarterly event is recommended based on documentation of the violation during the September 25, 2007 investigation to the October 22, 2007 screening date.</p> </div>						
Economic Benefit (EB) for this violation			Statutory Limit Test			
Estimated EB Amount		<div style="border: 1px solid black; width: 100px; text-align: right;">\$21</div>	Violation Final Penalty Total		<div style="border: 1px solid black; width: 100px; text-align: right;">\$1,463</div>	
This violation Final Assessed Penalty (adjusted for limits)					<div style="border: 1px solid black; width: 100px; text-align: right;">\$1,463</div>	

Economic Benefit Worksheet

Respondent NTA Enterprises, Inc. dba Lucky 7 Quick Stop

Case ID No. 34910

Reg. Ent. Reference No. RN101536084

Media Petroleum Storage Tank

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	25-Sep-2007	25-Jul-2008	0.8	\$21	n/a	\$21

Notes for DELAYED costs

Estimated cost to repair the spill buckets and the fuel caps. The date required is the date of investigation and the final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$21

Screening Date 22-Oct-2007 Respondent NTA Enterprises, Inc. dba Lucky 7 Quick Stop Case ID No. 34910 Reg. Ent. Reference No. RN101536084 Media [Statute] Petroleum Storage Tank Enf. Coordinator Philip DeFrancesco Violation Number <input type="text" value="2"/> Rule Cite(s) Tex. Admin. Code §§ 334.49(c)(2)(C), (c)(4), and Tex. Water Code § 26.3475(d)	Docket No. 2007-1761-PST-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision September 19, 2007</i>
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Violation Description	Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Specifically, bimonthly inspections of the impressed current cathodic protection system were not being conducted. Also, failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial test had not been conducted.
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Base Penalty	\$10,000
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>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>

>> Programmatic Matrix

	Falsification				
	Major	Moderate	Minor		
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>		
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

Matrix Notes	Failing to test the cathodic protection system could expose human health or the environment to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.
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Adjustment	\$7,500
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Adjustment	\$2,500
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Violation Events

Number of Violation Events <input type="text" value="1"/>	<input type="text" value="27"/>	Number of violation days
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mark only one with an x	daily	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text" value="x"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	

Violation Base Penalty	\$2,500
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One quarterly event is recommended based on documentation of the violation during the September 25, 2007 investigation to the October 22, 2007 screening date.	
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Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$1,527"/>	Violation Final Penalty Total <input type="text" value="\$3,658"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,658"/>	

Economic Benefit Worksheet

Respondent NTA Enterprises, Inc. dba Lucky 7 Quick Stop

Case ID No. 34910

Reg. Ent. Reference No. RN101536084

Media Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Triennial Testing	\$1,000	25-Sep-2004	5-Oct-2007	3.9	\$197	\$1,000	\$1,000
Bimonthly Testing	\$500	25-Jul-2007	25-Sep-2007	1.1	\$27	\$500	\$527

Notes for AVOIDED costs

The estimated avoided cost for conducting the triennial test. The date required is three years prior to the investigation date and the final date is the compliance date. The estimated cost for conducting bimonthly inspections. The date required is two months prior to the investigation date and the final date is the investigation date

Approx. Cost of Compliance

\$1,500

TOTAL

\$1,527

Screening Date 22-Oct-2007

Docket No. 2007-1761-PST-E

PCW

Respondent NTA Enterprises, Inc. dba Lucky 7 Quick Stop

Policy Revision 2 (September 2002)

Case ID No. 34910

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN101536084

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Philip DeFrancesco

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.50(a)(1)(A), (b)(2), (b)(2)(A)(i)(III), and Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description

Failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances. Failed to provide release detection for the piping associated with the USTs. Specifically, the annual piping tightness test had not been conducted. Also, failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>>Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failing to monitor the UST system for releases could expose human health or the environment to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

27 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One monthly event is recommended based on documentation of the violation during the September 25, 2007 investigation to the October 22, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,160

Violation Final Penalty Total \$3,658

This violation Final Assessed Penalty (adjusted for limits) \$3,658

Economic Benefit Worksheet

Respondent NTA Enterprises, Inc. dba Lucky 7 Quick Stop

Case ID No. 34910

Reg. Ent. Reference No. RN101536084

Media Petroleum Storage Tank

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount

No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,500	25-Sep-2007	25-Jul-2008	0.8	\$62	n/a	\$62

Notes for DELAYED costs

The estimated cost to provide a method of release detection for the UST. The date required is the investigation date and the final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,000	25-Sep-2006	5-Oct-2007	1.9	\$97	\$1,000	\$1,097
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Avoided costs for conducting annual piping tightness test and line leak detector test. The date required is one year prior to the investigation date and the final date is the date of compliance.

Approx. Cost of Compliance

\$2,500

TOTAL

\$1,160

Screening Date 22-Oct-2007

Docket No. 2007-1761-PST-E

PCW

Respondent NTA Enterprises, Inc. dba Lucky 7 Quick Stop

Policy Revision 2 (September 2002)

Case ID No. 34910

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN101536084

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Philip DeFrancesco

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 334.48(c)

Violation Description

Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

Failing to conduct the UST system inventories could expose human health or the environment to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

27 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the September 25, 2007 investigation to the October 22, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$19

Violation Final Penalty Total \$3,658

This violation Final Assessed Penalty (adjusted for limits) \$3,658

Economic Benefit Worksheet

Respondent NTA Enterprises, Inc. dba Lucky 7 Quick Stop

Case ID No. 34910

Reg. Ent. Reference No. RN101536084

Media Petroleum Storage Tank

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	25-Sep-2007	25-Jun-2008	0.8	\$19	n/a	\$19

Notes for DELAYED costs

Estimated cost to conduct proper inventory control procedures. The date required is the investigation date and the final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$19

Screening Date 22-Oct-2007

Docket No. 2007-1761-PST-E

PCW

Respondent NTA Enterprises, Inc. dba Lucky 7 Quick Stop

Policy Revision 2 (September 2002)

Case ID No. 34910

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN101536084

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Philip DeFrancesco

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(C)

Violation Description

Failed to ensure that all USTs are properly identified as listed on the Facility's UST registration and self-certification form by a legible tag, label, or marking that is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor
		x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

27 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the September 25, 2007 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$1,463

This violation Final Assessed Penalty (adjusted for limits) \$1,463

Economic Benefit Worksheet

Respondent NTA Enterprises, Inc. dba Lucky 7 Quick Stop

Case ID No. 34910

Reg. Ent. Reference No. RN101536084

Media Petroleum Storage Tank

Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	25-Sep-2007	25-Jul-2008	0.8	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to label the UST fill ports. The date required is the investigation date and the final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Compliance History

Customer/Respondent/Owner-Operator:	CN603263146	NTA ENTERPRISES, INC.	Classification: AVERAGE	Rating: 22.50
Regulated Entity:	RN101536084	LUCKY 7 QUICK STOP	Classification: AVERAGE	Site Rating: 22.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	64498	
Location:	6011 South Interstate 45, Corsicana, TX	Rating Date: September 01 07	Repeat Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	October 31, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 31, 2002 to October 31, 2007			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Philip DeFrancesco Phone: (817) 588-5933

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 10/25/2004 ADMINORDER 2004-0154-PST-E

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G]

30 TAC Chapter 37, SubChapter I 37.815(b)[G]

Description: Failure to have financial assurance for the UST system

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 07/03/2003 (36278)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
NTA ENTERPRISES, INC. DBA
LUCKY 7 QUICK STOP;
RN101536084

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2007-1761-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the respondent's fuel delivery certificate. The Commission also considered the Executive Director's Motion requesting entry of an Order requiring the respondent, NTA Enterprises, Inc. dba Lucky 7 Quick Stop ("NTA Enterprises"), to shutdown or remove from service the Underground Storage Tanks ("USTs") at the Lucky 7 Quick Stop facility, located at 6011 South I-45 West, Corsicana, Navarro County, Texas.

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. NTA Enterprises owns and operates a convenience store with retail sales of gasoline, located at 6011 South I-45 West, Corsicana, Navarro County, Texas (the "Facility").
2. The USTs at the Facility contain regulated substances as defined in the Commission's rules. The USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. On September 7, 2007, an investigator from the TCEQ Dallas/Fort Worth Office documented that NTA Enterprises:

- a. Failed to provide spill containment equipment for the UST system. Specifically, the spill bucket on tank number 3 was broken, the spill containment device on tank number 4 was not equipped with a liquid-tight lid, and three of the six fuel caps were excessively damaged;
 - b. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Specifically, bimonthly inspections of the impressed current cathodic protection system were not being conducted. Also, failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial test had not been conducted;
 - c. Failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances, specifically, failed to provide release detection for the piping associated with the USTs, and failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the annual piping tightness test had not been conducted and the line leak detectors had not been performance tested annually;
 - d. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel; and
 - e. Failed to ensure that all USTs are properly identified as listed on the Facility's UST registration and self-certification form by a legible tag, label, or making that is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube.
4. By letter dated October 8, 2007, the TCEQ Dallas / Fort Worth Office provided NTA Enterprises with notice of the violations and the TCEQ's authority to shut down and remove from service USTs not in compliance with release detection, spill and/or overfill prevention, and corrosion protection regulations if the violations were not corrected.
 5. NTA Enterprises received notice of the violations on or about October 8, 2007.
 6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of NTA

Enterprises, Inc. dba Lucky 7 Quick Stop" (the "EDPRP") in the TCEQ Chief Clerk's office on April 23, 2008.

7. By letter dated April 23, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served NTA Enterprises with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that NTA Enterprises received notice of the EDPRP.
8. More than 20 days have elapsed since NTA Enterprises received notice of the EDPRP, provided by the Executive Director. NTA Enterprises failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.
9. By letter dated June 10, 2008, TCEQ provided NTA Enterprises with notice of TCEQ's intent to order the USTs at the Facility shut down and removed from service if NTA Enterprises failed to correct the spill containment, the cathodic protection system, and the release detection violations within 30 days after NTA Enterprises's receipt of the notice.
10. As of the date of entry of this Order, NTA Enterprises has not corrected the violations noted during the September 7, 2007, investigation.
11. The USTs at the Facility do not have corrosion protection as required by 30 TEX. ADMIN. CODE § 334.49, release detection as required by 30 TEX. ADMIN. CODE § 334.50, and spill containment as required by 30 TEX. ADMIN. CODE § 334.51, and may be releasing petroleum products to the environment without the knowledge of the tank owner or operator. Therefore, conditions at the Facility constitute an imminent peril to public health, safety, and welfare.

CONCLUSIONS OF LAW

1. NTA Enterprises's USTs are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., NTA Enterprises failed to provide spill containment equipment for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.51(b)(2)(B) and TEX. WATER CODE § 26.3475(c)(2).
3. As evidenced by Finding of Fact No. 3.b., NTA Enterprises failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and

other system components are operating properly, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and (c)(4) and TEX. WATER CODE § 26.3475(d).

4. As evidenced by finding of Fact No. 3.c., NTA Enterprises failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances, failed to provide release detection for the piping associated with the USTs, and failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(a)(1)(A), (b)(2), and (b)(2)(A)(i)(III), and TEX. WATER CODE § 26.3475 (a) and (c)(1).
5. As evidenced by finding of Fact No. 3.d., NTA Enterprises failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel, in violation of 30 TEX. ADMIN. CODE § 334.48(c).
6. As evidenced by finding of Fact No. 3.e., NTA Enterprises failed to ensure that all USTs are properly identified as listed on the Facility's UST registration and self-certification form by a legible tag, label, or marking that is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C).
7. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served NTA Enterprises with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
8. As evidenced by Finding of Fact No. 8, NTA Enterprises failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against NTA Enterprises and assess the penalty recommended by the Executive Director.
9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against NTA Enterprises for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
10. An administrative penalty in the amount of thirteen thousand nine hundred dollars (\$13,900.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

11. As evidenced by Finding of Fact Nos. 4, 9, and 10, NTA Enterprises failed to correct documented violations of Commission requirements within 30 days after NTA Enterprises received notice of the violations and notice of the Executive Director's intent to shut down the Facility.
12. TEX. WATER CODE § 26.3475(e) authorizes the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of Commission regulatory requirements relating to release detection for tanks and/or piping, spill and overfill protection for tanks, and/or corrosion protection for tanks and piping.
13. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
14. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke NTA Enterprises's UST delivery certificate if the Commission finds that good cause exists.
15. Good cause for revocation of NTA Enterprises's UST delivery certificate exists as justified by Findings of Fact Nos. 6, 7, and 8, and Conclusions of Law Nos. 7 and 8.
16. As evidenced by Finding of Fact Number 11, current conditions at the Facility constitute an imminent peril to public health, safety and welfare.

ORDERING PROVISIONS

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. Immediately upon the effective date of this Order, NTA Enterprises shall take the following steps to shut down operations of all USTs at the Facility:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Padlock the dispensers;
 - d. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and

- e. Temporarily remove the USTs from service in accordance with 30 TEX. ADMIN. CODE § 334.54.
2. NTA Enterprises' UST delivery certificate is revoked immediately upon the effective date of this Order. NTA Enterprises may submit an application for a new delivery certificate only after NTA Enterprises has complied with all of the requirements set forth in these Ordering Provisions.
3. Within 10 days after the effective date of this Order, NTA Enterprises shall send its UST delivery certificate to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Within 15 days after the effective date of this Order, NTA Enterprises shall submit to the Executive Director a detailed written report documenting the steps it has taken to comply with Ordering Provision Nos. 1.a. through 1.e. and 3. NTA Enterprises shall submit the report to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Sam Barrett, Waste Section Manager
Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
2309 Gravel Drive
Fort Worth, Texas 76118-6951

5. If NTA Enterprises elects to permanently remove from service any USTs at the Facility, NTA Enterprises shall permanently remove those USTs in accordance with 30 TEX. ADMIN. CODE § 334.55, and shall submit to the Commission a written report documenting compliance with

30 TEX. ADMIN. CODE § 334.55. NTA Enterprises shall submit the written report to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

6. NTA Enterprises's USTs shall remain out of service as directed by Ordering Provision Nos. 1.a. through 1.e. until such time as NTA Enterprises demonstrates to the satisfaction of the Executive Director that it has corrected the violations noted in Finding of Fact Nos. 3.a through 3.c and Conclusion of Law Nos. 2 through 4 as listed herein.
7. NTA Enterprises is assessed an administrative penalty in the amount of thirteen thousand nine hundred dollars (\$13,900.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and NTA Enterprises's compliance with all the terms and conditions set forth in this Order completely resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: NTA Enterprises, Inc. dba Lucky 7 Quick Stop; Docket No. 2007-1761-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

8. Prior to resuming service of the USTs, NTA Enterprises shall undertake the following technical requirements:
 - a. Begin conducting effective manual or automated inventory control procedures for all USTs, in accordance with 30 TEX. ADMIN. CODE § 334.48;
 - b. Equip all USTs at the Facility with spill and overfill prevention equipment, in accordance with 30 TEX. ADMIN. CODE § 334.51;

- c. Begin conducting bimonthly inspections of the impressed current cathodic protection system to ensure that the rectifier and other system components are operating properly, in accordance with 30 TEX. ADMIN. CODE § 334.49;
 - d. Implement a release detection method for all USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - e. Mark the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each UST, in accordance with 30 TEX. ADMIN. CODE § 334.8; and
 - f. Submit an application for a new delivery certificate.
9. Within 10 days of resuming service of the USTs, NTA Enterprises shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 8.a. through 8.f. The written certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and, that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Sam Barrett, Waste Section Manager
Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
2309 Gravel Drive
Fort Worth, Texas 76118-6951

10. Upon obtaining a new delivery certificate, NTA Enterprises shall post the delivery certificate in a location where the document is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
11. All relief not expressly granted in this Order is denied.
12. The provisions of this Order shall apply to and be binding upon NTA Enterprises, and NTA Enterprises is ordered to give notice of this Order to personnel who maintain day to day control of the USTs at the Facility.
13. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to NTA Enterprises if the Executive Director determines that NTA Enterprises is noncompliant with or in violation of any of the terms and conditions set forth in this Order.
14. This Order shall terminate five years from its effective date or when NTA Enterprises demonstrates to the satisfaction of the Executive Director that it has corrected all of the violations noted herein.
15. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order is the date this decision was rendered, pursuant to TEX. GOV'T CODE § 2001.144(a)(3).

NTA Enterprises, Inc. dba Lucky 7 Quick Stop
TCEQ Docket No. 2007-1761-PST-E
Page 10

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF BARHAM A. RICHARD

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Barham A. Richard. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

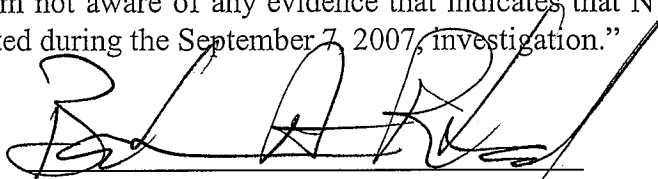
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of NTA Enterprises, Inc. dba Lucky 7 Quick Stop" (the "EDPRP") was filed with the Office of the Chief Clerk on April 23, 2008.

The EDPRP was mailed to NTA Enterprises at its last known address on April 23, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that NTA Enterprises received notice of the EDPRP.

More than 20 days have elapsed since NTA Enterprises received notice of the EDPRP. NTA Enterprises failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

By letter dated June 10, 2008, I provided NTA Enterprises with notice of the TCEQ's intent to order the USTs at the Facility shut down and removed from service if the violations pertaining to release detection and spill and overfill prevention equipment were not corrected within 30 days of NTA Enterprises's receipt of the letter.

As of the date of this affidavit, I am not aware of any evidence that indicates that NTA Enterprises has corrected the violations noted during the September 7, 2007, investigation."


Barham A. Richard, Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Barham A. Richard, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 17th day of September A.D., 2008.

Dawn E Beam
Notary Signature

